

Message Text

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ORIGIN EB-07

INFO OCT-01 AF-10 ARA-10 EA-07 EUR-12 NEA-10 OIC-02
IO-13 ISO-00 AGRE-00 CEA-01 CIAE-00 COME-00
DODE-00 FRB-03 H-01 INR-07 INT-05 L-03 LAB-04
NSAE-00 NSC-05 PA-01 EPG-02 AID-05 SS-15 STR-04
ITC-01 TRSE-00 USIA-06 PRS-01 SP-02 FEAE-00
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APPROVED BY EB/OT/STA:TO'HERRON
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EB/FTD:WBREW
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FM SECSTATE WASHDC
TO AMEMBASSY LONDON
INFO AMEMBASSY TOKYO
AMEMBASSY BRUSSELS
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USMISSION GENEVA

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USEEC, GENEVA PASS PHELAN

E.O. 11652: N/A

TAGS: ETRD, US, UK, JA

SUBJECT: ANTIDUMPING--JAPANESE NYLON

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REF: (A) LONDON 8575, (B) STATE 140317, (C) GENEVA 5005

1. THE PURPOSE OF THIS CABLE IS TO SUPPLEMENT AND
CLARIFY OUR RESPONSE (REF B) TO REF A (WHICH WAS REPEATED
TO GENEVA AS LONDON 10157) CONCERNING THE COVERAGE OF THE
ANTIDUMPING INVESTIGATION OF IMPRESSION FABRIC FROM JAPAN.
FOR THE PURPOSES OF THE TREASURY INVESTIGATION OF FAIR

VALUE IN ANTIDUMPING CASES, THE PERIOD STUDIED IS GENERALLY THAT OF "AT LEAST 120 DAYS PRIOR TO, AND 60 DAYS AFTER, THE FIRST DAY OF THE MONTH" IN WHICH A PETITION IN PROPER FORM WAS FILED. THE PETITION IN THIS CASE WAS RECEIVED IN FEBRUARY 1977. CONSEQUENTLY, THE TREASURY FAIR VALUE INVESTIGATION OF IMPRESSION FABRIC COVERS U.S. IMPORTS UNDER THE TSUS NUMBERS CITED IN REF B FROM OCTOBER 1, 1976 TO MARCH 31, 1977. THUS A LIFTING OF THE VOLUNTARY RESTRAINT ON TSUS 347.6020 WHICH CONCERNS DATA PRODUCTS WOULD NOT AFFECT TREASURY'S FAIR VALUE INVESTIGATION.

2. IF TREASURY FINDS SALES AT LESS THAN FAIR VALUE, THE CASE WILL BE REFERRED TO THE INTERNATIONAL TRADE

COMMISSION (ITC) FOR A THREE MONTH INVESTIGATION INTO INJURY OR THE LIKELIHOOD OF INJURY. THE PERIOD COVERED BY THE ITC INVESTIGATION IS BROADER THAN IN THE TREASURY INVESTIGATION, SO THAT IMPORTS AFTER MARCH 31 MAY BE CONSIDERED. THERE IS SOME QUESTION WHETHER IMPORTS PROCESSED IN A FOREIGN TRADE ZONE OR IN A BONDED WAREHOUSE (PARA 2 OF REF B) AND REEXPORTED WOULD BE INCLUDED IN THE ITC INVESTIGATION, BUT THE ISSUE WOULD ONLY BE DECIDED IN TERMS OF A SPECIFIC CASE THAT HAS COME BEFORE THE ITC. THEREFORE, WE CANNOT GIVE A DEFINITE ANSWER AT THIS TIME AS TO WHETHER OR NOT THE IMPRESSION FABRIC LIMITED OFFICIAL USE

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IMPORTED FOR FURTHER PROCESSING AND REEXPORTED WOULD BE COVERED BY THE ITC PART OF THE ANTIDUMPING INVESTIGATION. ALL PARTIES WILL HAVE AN OPPORTUNITY TO PRESENT EVIDENCE AT A PUBLIC HEARING IF THE CASE SHOULD BE REFERRED TO THE ITC.

3. ONLY AFTER TREASURY HAS FOUND SALES AT LESS THAN FAIR VALUE AND THE ITC HAS SUBSEQUENTLY FOUND INJURY DOES THE U.S. ASSESS DUMPING DUTIES. THE ASSESSMENT IS DONE ON AN ENTRY BY ENTRY BASIS AND DUTIES ARE ONLY COLLECTED IF THE IMPORT IS PRICED AT LESS THAN FAIR VALUE. THE INITIAL LIABILITY FOR POTENTIAL DUMPING DUTIES IS ESTABLISHED AT THE TIME OF PUBLICATION OF A TENTATIVE DETERMINATION OF SALES AT LESS THAN FAIR VALUE WHEN THE TREASURY WITHHOLDS APPRAISEMENT FOR THREE OR SIX MONTHS. THE TENTATIVE DETERMINATION NORMALLY COMES SIX MONTHS AFTER THE INITIATION OF AN INVESTIGATION OR BY SEPTEMBER 15, 1977 IN THIS CASE.

4. PARA 2 OF REF B SET FORTH THREE METHODS BY WHICH IMPRESSION FABRIC COULD BE IMPORTED FOR FURTHER PROCESSING PRIOR TO RE-EXPORTATION WITHOUT BEING LIABLE TO ANY DUMP-

ING DUTIES THAT MIGHT BE IMPOSED. THERE IS A FOURTH
METHOD KNOWN AS A "DRAWBACK" UNDER SECTION 211 OF THE
ANTIDUMPING ACT OF 1921 AS AMENDED. IF DATA PRODUCTS
WOULD LIKE FURTHER INFORMATION ON THIS METHOD, THE PARENT
COMPANY SHOULD CONTACT THE REGIONAL COMMISSIONER OF CUS-
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